

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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PLM-I
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FILE: B-215617

DATE: December 21, 1984

MATTER OF: Stacy A. Budner - Cooperative Education
Student - Per Diem at Duty Station

DIGEST:

Employee, while holding a temporary appointment as a student trainee under the Cooperative Education Program of the Forest Service, performed almost all of her duties at the Red Ives Ranger Station near Avery, Idaho, during two periods of service. Between the periods of service, she was in a leave-without-pay status, and following the second one she received a career-conditional appointment. The long-standing rule is that an employee may not be paid per diem at his or her official duty station. Since claimant, while a student trainee, did not have a permanent duty station to which she reported during the period she was on leave without pay, and inasmuch as Red Ives was her official station where she performed almost all of her duties, she may not be paid a per diem allowance for her time at that duty station.

This decision is in response to a request from Mr. C.E. Tipton, Authorized Certifying Officer, Fiscal and Accounting Management, Forest Service, United States Department of Agriculture, as to whether Ms. Stacy A. Budner, an employee of the agency, is entitled to per diem while employed by the Forest Service as a cooperative education student. Ms. Budner has submitted two travel vouchers claiming per diem during her periods of employment as a student trainee. The certifying officer requests a decision as to whether the vouchers may be paid.

The question presented is whether a student trainee under the Cooperative Education Program is entitled to payment of a per diem allowance while working at her official duty station. For the reasons hereafter stated, the claimant is not entitled to the payment of a per diem allowance.

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The facts, briefly stated, are as follows. Ms. Budner was a student trainee under the Forest Service Cooperative Education (COOP) Program with an excepted appointment. Her official duty station, as shown on her personnel actions, was the Red Ives Ranger Station located near Avery, Idaho, in the Idaho Panhandle National Forests. Ms. Budner performed almost all of her official duties at Red Ives. She initially reported for duty at the ranger station on June 8, 1981, and remained there until November 12, 1981, when she returned to college at Colorado Springs, Colorado. The Red Ives Ranger Station closes during the winter. Ms. Budner remained on the rolls of the Forest Service during the winter in a leave-without-pay status while attending college.

Ms. Budner returned to work at Red Ives on June 7, 1982, and worked there until November 26, 1982. Effective December 12, 1982, her appointment was converted to a career-conditional appointment and she reported for duty at St. Maries, Idaho, her new official duty station.

Based upon our decision, Frederick C. Welch, 62 Comp. Gen. 80 (1982), the Forest Service determined that the official duty station for all permanent employees of the Red Ives Ranger District was St. Maries, Idaho. The majority of the permanent employees of the district maintain their residences and work during the winter in St. Maries. Ms. Budner's official duty station was determined to be the Red Ives Ranger Station since she performed almost all of her duties at that location, due to the nature of her cooperative education assignment. For this reason, the Forest Service denied Ms. Budner's claims for per diem because her official duty station was determined to be the Red Ives Ranger Station.

The general statutory authority for the payment of per diem allowances is contained in 5 U.S.C. § 5702 (1982) and provides, in pertinent part, that "an employee while traveling on official business away from his designated post of duty * * * is entitled to * * * a per diem allowance * * *." The implementing regulations, Federal Travel Regulations, FPMR 101-7 (September 1981), (FTR), provide, at paragraph 1-7.1a, that "[p]er diem allowances * * * shall be paid for official travel." Thus, federal employees have a basic statutory entitlement to be paid per diem allowances while traveling on official business away from their official duty stations. Paragraph 1-7.6a of the FTR provides that an employee may not be paid per diem at his

or her permanent duty station or at the place of abode from which he or she commutes daily to his or her official station.

This Office has repeatedly held that an agency may not designate an employee's official duty station at some place other than the place at which he or she is expected to perform almost all of his or her duties in order to pay him or her per diem at such place. 31 Comp. Gen. 289 (1952); B-172207, July 21, 1971. In our decision, 25 Comp. Gen. 136 (1945), we stated at page 138:

"The post of duty of an employee is required by regulation to be the place at which the employee actually is stationed; and, under rulings of many years standing, such post of duty is the place where the employee expects, and is expected, indefinitely to spend the greater part of his time - where, normally, his residence would be established and there would be no extra subsistence expenses to be incurred or to be reimbursed through the medium of a per diem. * * *"

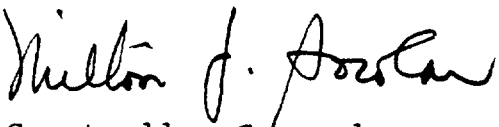
This Office has also long held that the location of an employee's official duty station is a question of fact, not limited by the agency's designation, to be determined from the orders directing the assignment, and from the nature and duration of the assignment. Welch, 62 Comp. Gen. at 84. We have stated that the duration and nature of the duties assigned are of particular importance in making the determination of whether an assignment to a particular duty station is a permanent change of station. 36 Comp. Gen. 757 (1957); 33 Comp. Gen. 98 (1953); Don L. Hawkins, B-210121, July 6, 1983.

Ms. Budner, who was granted a temporary appointment and while working as a student trainee under the COOP Program of the Forest Service, did not have a permanent duty station to which she reported during the winter. In November 1981, she returned to college, and in December 1982, she was granted a career-conditional appointment and reported for duty at St. Maries, her new duty station. Therefore, the Forest Service was correct in designating the Red Ives Ranger Station as Ms. Budner's official duty station while she worked as a student trainee since she had no other permanent duty station to which she reported during the winter and Red Ives was the place where she performed almost all of

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her official duties. Inasmuch as the Red Ives Ranger Station was Ms. Budner's official duty station, under the applicable law and regulations, she is not entitled to the payment of a per diem allowance during the periods she performed duties at Red Ives as a student trainee under the COOP Program of the Forest Service. See Willie L. Adams, et al., B-186045, November 4, 1976.

Accordingly, the two travel vouchers submitted by Ms. Budner for payment of a per diem allowance during the periods she worked at the Red Ives Ranger Station, may not be certified for payment.

for 
Comptroller General
of the United States